



Simon Corbell MLA

ATTORNEY-GENERAL
MINISTER FOR THE ENVIRONMENT AND SUSTAINABLE DEVELOPMENT
MINISTER FOR POLICE AND EMERGENCY SERVICES
MINISTER FOR WORKPLACE SAFETY AND INDUSTRIAL RELATIONS

MEMBER FOR MOLONGLO

Mr Malcolm Gray
Senior Commissioner
Independent Competition and Regulatory Commission
Level 8, 221 London Circuit
CANBERRA CITY ACT 2600

cc: Mr Andrew Barr
Treasurer
ACT Legislative Assembly
CANBERRA ACT 2601

Dear Mr Gray

I am writing in response to the Independent Competition and Regulatory Commission's Draft Report of February 2014 in relation to the determination of retail electricity prices for small customers from 1 July 2014.

I would like to thank the Commission for the work that it has undertaken in producing this report. I am pleased to note that the Commission, having considered the matter of competition allowance in detail, has agreed with the Government's position that granting such an allowance would not be in the best interest of ACT electricity customers.

I would also like to highlight the following matters covered in the draft report.

Costs of Feed-in-Tariff (FiT) schemes to consumers

As you are aware, the costs of FiT schemes are of significant interest to the Canberra community and as such it is important that these costs are transparent and readily accessible. This need for transparency will be further enhanced once generators under the large scale FiT start coming online from mid 2014.

I understand that in discussions with my Directorate, the Commission has indicated that it is possible to report the FiT pass through cost to households. As such, the Terms of Reference have been written to require the Commission to identify and report on the cost allowance of the FiT (small and large scale) for the period for which the determination is being made. I note that the draft report only contains per household annual average of the FiT costs that were allowed by the Australian Energy Regulator for the period 2009-14. This does not include any information on what was actually paid to ActewAGL Distribution each year, as requested in the Terms of Reference, and the impact on household costs. Consistent with the Terms of Reference, it is expected that period-specific information will be included in the final determination. It would also

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be preferred if the FiT pass through cost is provided on a per megawatt hour basis, making it comparable to other components in the determination.

Costs of the Energy Efficiency Improvement Scheme (EEIS)

Noting the Terms of Reference for the Commission's determination, which included consideration of the efficient cost of compliance with the EEIS, I have concerns about the costs forecast by ActewAGL Retail (AAR) in relation to the EEIS for 2014-15. Based on the cost of activities incurred by retailers in comparable jurisdictional schemes, the forecast abatement cost of \$41 per tonne of carbon dioxide equivalent is higher than would be expected. From this perspective, it is not clear that this would reflect an 'efficient cost' in the context of a final determination by the Commission.

I also note that while the Commission has decided to adopt an ex-ante approach for assessing costs incurred by AAR to comply with the EEIS, I continue to believe that a retrospective assessment and adjustment is desirable and consistent with the interest of ACT electricity customers. For example, in its first year AAR only undertook very low cost activities which have been delivered at a substantially lower cost in other jurisdictions. It is important that only an efficient cost of complying with the EEIS is passed through to the ACT community.

It is my view that significant opportunities exist for AAR to diversify the activities offered over the coming compliance period to meet increasing targets, as is provided for under the *Energy Efficiency (Cost of Living) Improvement Act 2012*. For example, the Act allows for AAR to purchase abatement from third party providers in a more open-market setting which could deliver costs of abatement comparable to certificate-based schemes in Victoria and NSW. Given the risk that potentially inefficient costs will be passed on to consumers, I believe this matter warrants further examination by the Commission.

I note that the Commission has indicated a paucity of information as a barrier to a comparative analysis with similar schemes in Victoria and South Australia. If requested by the Commission, ESDD officers responsible for EEIS are willing to engage with agencies and service providers in other jurisdictions and assist in information gathering for this purpose. Additionally, if deemed necessary, work will be undertaken by the Environment and Sustainable Development Directorate (ESDD), separate to the price determination process. This is necessary to inform the setting of the Energy Savings Contribution (ESC) payable by Tier 2 retailers – and ensure the best outcome for consumers and competition in the ACT.

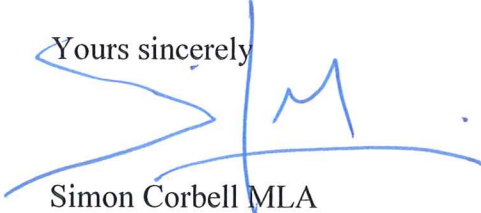
Expected repeal of the carbon price

The Commission's draft report highlights the uncertainty regarding the repeal of the Carbon price by the Federal Government. I understand that, assuming this repeal occurs after 1 July 2014 and is retrospective in nature (back dated to 1 July 2014), National Energy Laws may restrict ActewAGL's capacity to pass through savings to customers before 1 January 2015. This issue is not specific to the ACT and as the Commission is aware, the Commonwealth is currently examining options to ensure reduced prices are passed on by retailers immediately. I expect the Commonwealth will provide advice to jurisdictional governments on resolving this issue in the next two months, in light of upcoming 2014-15 price determination decisions. ESDD will continue to keep the Commission informed of any developments in this relation.

My primary concern in this matter is to ensure that electricity businesses are not making windfall profits at the expense of ACT energy customers. As this matter is still being considered by the Federal Government, I consider it would be prudent to keep open all policy, regulatory and legislative options at this stage. This could potentially include an arrangement where the regulated price, as reset from 1 January 2015, factors in all savings accrued by AAR as a result of the carbon price repeal. I do not believe this would materially detriment retail competition in the ACT given the absence of effective competition and that competitor retailers are free to match AAR's pricing at any point in the determination period.

I would like to again thank the ICRC for undertaking this work. If you have any questions about these matters, please contact Mr Sean Das in ESDD on 6207 7462.

Yours sincerely

A handwritten signature in blue ink, consisting of a stylized 'S' followed by a vertical line and a horizontal line, with a small 'M' shape above the vertical line.

Simon Corbell MLA
Minister for the Environment and Sustainable Development

25.3.14